

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C. 20554**

In the Matter of	)	
	)	CC Docket No. 95-116
Telephone Number Portability	)	
	)	

**REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.  
ON CTIA PETITION FOR DECLARATORY RULING**

Pursuant to Public Notice DA 03-20211,<sup>1</sup> AT&T Wireless Services, Inc. (“AWS”) respectfully submits these reply comments on the petition by the Cellular Telecommunications & Internet Association (“CTIA”) for a declaratory ruling.

**I. INTRODUCTION**

The record clearly demonstrates that the Commission needs to act to clarify the scope of wireline carriers’ porting obligations to wireless carriers. The range of divergent opinions on what is required for wireline to wireless local number portability (“LNP”) is indicative of the high degree of confusion surrounding the scope of the obligation.

In addition, it is clear from the record that, absent the requested ruling from the Commission on the CTIA petition, many local exchange carriers (“LECs”) will prevent (or significantly restrict) customers from porting to wireless carriers altogether.<sup>2</sup> No party has been able to offer a compelling reason why the Commission should allow this to occur. Specifically, no party has offered any technical or compelling competitive reason why wireline to wireless porting should be limited. Moreover, such a result would be directly contrary to the

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<sup>1</sup> Public Notice, *Comment Sought on CTIA Petition for Declaratory Ruling that Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas*, DA 03-20211 (Jan. 2003) (comments due Feb. 26, 2003; reply comments due March 13, 2003).

<sup>2</sup> See generally Centurytel comments; Fred Williamson on behalf of Oklahoma Rural LECs (“Oklahoma Rural LECs”); Michigan Exchange Carriers Association comments; Nebraska Rural LECs comments; USTA comments.

Commission's heavy reliance on the promotion of inter-modal competition as a justification for its continuing imposition of the wireless LNP mandate.<sup>3</sup>

Moreover, it is essential that the requested ruling be granted quickly. Wireless carriers are required currently to implement LNP by November 24, 2003 and need time to prepare for wireline to wireless porting. Indeed, even BellSouth acknowledges the importance of resolving the petition in a timely fashion prior to the wireless LNP deadline, so that wireless and wireline carriers "have at least seven or eight months to develop the technical specifications and procedures necessary to implement wireless LNP on a competitively neutral basis."<sup>4</sup> If the Commission fails to grant the petition, it must defer or further extend the wireless LNP deadline.<sup>5</sup>

## **II. NUMEROUS PARTIES MISCHARACTERIZE THE PETITION AS SEEKING MAJOR CHANGES IN LNP RULES, INDUSTRY GUIDELINES, OR RURAL LEC OBLIGATIONS**

The relief that the CTIA petition seeks is relatively modest and straightforward. CTIA simply asks the Commission to confirm the existing obligation that wireline carriers are required to port to wireless carriers within the wireless carriers' service areas. This obligation is within the scope of existing wireline LNP regulations and laws, which CTIA does not attempt to change. Nevertheless, a number of parties mischaracterize CTIA's petition as seeking fundamental changes to the LNP rules. For example, some commenters characterize the petition as requiring "location portability" beyond the rate center.<sup>6</sup> Further, some rural LECs contend

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<sup>3</sup> See *Matter of Verizon Wireless' Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, FCC 02-215, WT Docket No. 01-184, CC Docket No.95-116, Memorandum Opinion and Order (July 26, 2002) at paras. 2, 18; CTIA petition at 4, 13-14; New York Department of Public Service (NYDPS) comments at 3; AWS comments at 4-5; LEAP comments at 1.

<sup>4</sup> BellSouth comments at 4.

<sup>5</sup> See AWS comments at 1; BellSouth comments at 4.

<sup>6</sup> See, e.g., Centurytel comments at 3-4; Nebraska Rural Carrier comments at 4-5; Rural Iowa Independent

that the CTIA petition would impose on them obligations to implement LNP in the absence of a bona fide request (“BFR”) or even where the rural LEC is located outside of a top 100 Metropolitan Statistical Area (“MSA”). These parties go on to express concern about the adverse impact that such changes would have on them. Because CTIA seeks no such changes, the Commission should disregard these arguments as irrelevant.

**A. The CTIA Petition Does Not Seek “Location Portability” or a Change in North American Numbering Plan Guidelines**

Contrary to some parties’ concerns, the CTIA petition does not seek a ruling requiring wireline carriers to port numbers “beyond the rate centers” associated with the NPA-NXX of a ported number nor does it seek “location portability,” which would allow a customer the ability to port a number to a different location.<sup>7</sup> In fact, CTIA states expressly in its petition that “[t]his Petition is not a request for location provider portability.”<sup>8</sup> Instead, the CTIA petition is merely ensuring that a number can be ported to a wireless carrier, where the wireless carrier’s serving area covers the rate center associated with that number. As AWS noted in its opening comments, the ported number would continue to be associated with the rate center for wireline billing purposes.<sup>9</sup> Moreover, because the number remains associated with the rate center, there will *not* be customer confusion, rating problems, toll charges, or any of the other complex or adverse effects of location portability, as some parties contend.<sup>10</sup>

In addition, contrary to suggestions by the Oklahoma Rural LECs, granting the CTIA petition would not require alteration of the “underpinnings of the North American Numbering

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Telephone Association comments at 3.

<sup>7</sup> See, e.g., OPASTCO comments at 2; Centurytel comments at 3-4.

<sup>8</sup> CTIA Petition at 3, n.5.

<sup>9</sup> AWS comments at 6.

<sup>10</sup> See, e.g., Centurytel comments at 3.

Plan (NANP's) area code system and assignment guidelines.”<sup>11</sup> In fact, CTIA's proposal is consistent with current numbering guidelines and the way in which wireless carriers assign numbers to customers today. Although wireless carriers generally assign numbers to a customer near or in the rate center in which the customer lives or works, there are no numbering assignment guidelines that require wireless carriers to assign numbers in this manner. Wireless customers are generally free to pick the rate center with which they desire to have their number associated.<sup>12</sup> The CTIA petition will not change this basic numbering assignment practice. Porting in wireless customers can choose to remain in a rate center, even if it is not the rate center where the customer lives.

**B. The Petition Does Not Seek to Expand or Impose New LNP Obligations on Rural LECs**

Some rural LECs object to the CTIA petition as being too vague or seeking to expand a rural carrier's obligations to provide LNP. For example, the Michigan Exchange Carriers and NECA express concerns that granting the petition might mean that a rural carrier that currently is not within a top 100 MSA would be required to port to a wireless carrier, or that a rural carrier that has not yet received a BFR or request for LNP, might be required to provide LNP to a requesting wireless carrier.<sup>13</sup> Rural LECs also assert that the CTIA petition, if granted, would impose obligations on them to transport traffic to areas beyond their service territory. These carriers stress the negative impact that these changes would have on rural carriers in terms of

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<sup>11</sup> Oklahoma Rural LECs comments at 4.

<sup>12</sup> NANC Local Number Portability Administration Working Group Report on Wireless Wireline Integration, May 8, 1998) (*First NANC Report on Wireless Wireline Integration*), Appendix D, 1.2 (2.3). Thus, wireless carriers have flexibility about what rate center from which they assign numbers to a customer, unlike wireline carriers, who must assign telephone numbers to wireline customers where they are physically located. *See id.* at Section 1.4 (Wireline TN Assignment).

<sup>13</sup> NECA comments at 5 (noting that grant of the petition could “unjustifiably expand the obligation of rural carriers to implement LNP capability”); and Oklahoma Rural LECs at 1.

expense, time, and resources.<sup>14</sup> However, again, nothing in the CTIA petition seeks to change the status quo with regard to these issues, and the Commission should disregard these arguments.

The CTIA petition merely seeks to affirm the obligations of wireline carriers to port to wireless carriers, to the extent that the wireless carrier's service area covers the rate centers. It does not seek to impose LNP requirements on those carriers that do not have them today. Existing rules exempt carriers that are not within a top 100 MSA from the obligation to implement LNP and the CTIA petition does not seek to overturn this rule.<sup>15</sup> Moreover, currently a LEC does not have to provide LNP in a switch not yet open for portability, unless it receives a BFR. Although that issue is currently being reconsidered by the Commission,<sup>16</sup> again, nothing in the CTIA's requested ruling affects the current requirement that a carrier receive a BFR to open a switch for portability. Thus, if a rural carrier has not yet implemented LNP capability because it is either not within a top 100 MSA or has not yet received a BFR from a carrier, nothing in the requested ruling would require these rural LECs or other carriers to do so.

The claims by the rural LECs that granting the requested ruling would mean that rural LECs would be subject to *new* traffic transport obligations beyond their local service territory in delivering traffic to ported numbers or that they would result in compensation shortfalls,<sup>17</sup> are

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<sup>14</sup> See, e.g., Michigan Exchange Carriers Association comments at 3.

<sup>15</sup> See *Telephone Number Portability*, FCC 96-286, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking (July 2, 1996).

<sup>16</sup> See *Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, *Telephone Number Portability*, FCC 02-73, CC Docket No. 99-200, 96-98, 95-116, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116 (Mar. 14, 2002) ("*100 MSAs NPRM*") (seeking comment on, among other things, whether a carrier should be required to implement LNP within the top 100 MSAs, regardless of whether they receive a request to provide LNP). Moreover, to the extent that rural carriers can seek suspension or modification from LNP obligations under Section 251(f)(2), there is nothing in the CTIA requested ruling that would prevent or preclude this. See 47 U.S.C. Section 251(f)(2).

<sup>17</sup> NECA comments at 6 (claiming that compensation "shortfalls may also result when carriers seek to use NPA-NXX codes with routing points that differ from rating points, as in the case for numbers ported to a wireless carrier's POI situated outside the rural carrier's serving areas.")

similarly baseless. Nothing in the CTIA petition seeks to alter rural LECs' current obligations to transport and terminate calls to wireless customers, or to affect the current inter-carrier compensation scheme. AWS is well aware that the rural LECs have concerns about these existing obligations. However, these concerns are being addressed in the Commission's inter-carrier compensation docket and related proceedings, and should be decided in those dockets.<sup>18</sup> The complaints that rural LECs have about these existing interconnection obligations should not be used in this proceeding to hinder customers from being able to port numbers to wireless carriers.<sup>19</sup>

### III. THE RECORD SUPPORTS THE REQUESTED RULING

The record fully demonstrates that the Commission should grant CTIA's requested ruling. First, as discussed above, without such a ruling, it appears that there will be little or no wireline to wireless porting, in contravention of the Commission's stated intent. In addition, no party has demonstrated that there are any technical feasibility issues or rating problems that prevent a wireline carrier from porting numbers to wireless carriers where the wireless carrier's service area overlaps the rate center of the number. Further, CTIA's requested ruling would not

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<sup>18</sup> See *Sprint Petition for Declaratory Ruling Regarding ILEC's Obligations to Load Numbering Resources and to Honor Routing and Rating Points Designated by Interconnecting Carriers*, CC Docket No. 01-92 (filed May 9, 2002) (seeking ruling that, among other things, LECs must route traffic to the terminating wireless carrier's designated point of interconnection); *Petition for Declaratory Ruling of T-Mobile USA, et. al.* (filed Sept. 6, 2002) (seeking ruling against incumbent LEC practice of filing state wireless interconnection tariffs to avoid interconnection obligations); *In the Matter of Developing a Unified Inter-Carrier Compensation Regime*, FCC 01-132, CC Docket No. 01-92, Notice of Proposed Rulemaking (April 27, 2001) ("*Inter-Carrier Compensation NPRM*") (reviewing among other things, how carriers should be compensated for transport and termination of traffic). The LECs acknowledge that the issues they raise are being addressed in these Commission proceedings. See NECA comments at 6, n.22.

<sup>19</sup> For example, although Michigan Exchange Carriers suggests that requiring a physical point of presence by the wireless carriers within each rate center would minimize any traffic transport obligations (and costs) that a rural carrier might incur to route traffic to a ported number, there is absolutely no reason why such a requirement should be imposed. See Michigan Exchange Carriers Association comments at 5. Technically, this is not a requirement to porting a number to a wireless carrier. Further, legally, wireless carriers and other competitive carriers are not required to establish more than one point of presence within a LATA. *Inter-Carrier Compensation NPRM* at para. 112.

change the competitive landscape between wireless and wireline carriers. To the extent that a disparity exists today, it results not from wireless LNP, but from the mobile nature of wireless service that allows wireless carriers some flexibility in how they assign numbers to customers. The Commission should embrace and promote this flexibility, rather than impede it by imposing unreasonable and illogical numbering assignment requirements on wireless carriers in a misguided attempt to “level the playing field.”<sup>20</sup>

**A. There is No Technical Reason Why Wireline Carriers Cannot Port Numbers to Wireless Carriers in Rate Centers Within the Wireline Carriers’ Territory**

A number of commenters note that the only basis on which wireline carriers may be absolved of their porting obligations is if such porting is not technically feasible. There is ample support in the record for concluding that *no* technical feasibility issues arise in relation to granting the CTIA petition.<sup>21</sup> The Ohio Commission observes along with AWS that the *Wireless-Wireline Integration Task Force* (“WWITF”) on LNP implementation, a task force comprised of both wireline and wireless groups, concluded that there are no actual technical restrictions preventing a wireline subscriber from porting to a wireless carrier.<sup>22</sup> Moreover, the fact that one ILEC has affirmatively stated that it will not prevent porting of numbers from their customers to wireless carriers throughout the wireless carriers’ service area provides further support that this is technically feasible.<sup>23</sup>

Even the LECs who assert that there are technical feasibility issues associated with porting a number to a wireless carrier as requested by the CTIA petition fail to provide

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<sup>20</sup> See, e.g., Michigan Exchange Carriers Association comments at 5-6 (proposing that wireless carriers establish physical points of presence within the exchanges where they desire number portability); cf., WorldCom comments at 2.

<sup>21</sup> See, e.g., AWS comments at 6; Ohio Commission comments at 3; T-Mobile comments at 13.

<sup>22</sup> Ohio Commission comments at 3.

convincing evidence to support their claims. For example, some rural LECs contend that, where they do not have direct interconnection with wireless carriers, there are “some technical feasibility issues ... with [providing] LNP to a wireless company.”<sup>24</sup> However, it appears that their concerns are motivated more by their dislike of the Commission’s current rules that require telecommunications providers to interconnect indirectly with a LEC today, and not with any specific difficulties indirect interconnection will create in a porting environment.

**B. There are No Rating Issues Associated with the CTIA Petition**

Although many of the wireline carriers allege that a range of rating problems will occur with porting a number to wireless carriers, their allegations are unfounded. As discussed above, because the ported number would continue to be associated with the same rate center as prior to porting, there are no rating issues resulting from a grant of the requested ruling either. CTIA is not seeking to disassociate numbers from the rate centers and all land to mobile calls would continue to be rated according to the original rate center.

Moreover, some of the purported “rating” issues that wireline carriers assert would occur as a result of granting the CTIA petition appear, in fact, to be concerns related to inter-carrier compensation. As discussed above, rural LECs assert that there will be compensation shortfalls resulting when they port numbers to a wireless carrier’s point of interconnection outside the rural carriers’ serving area.<sup>25</sup> However, these concerns about inter-carrier compensation are no different in a porting environment from the concerns that rural wireline carriers have raised today without wireless LNP. As noted above, these issues are already being addressed in other Commission proceedings and do not need to be resolved prior to the Commission’s acting on this

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<sup>23</sup> BellSouth comments at 3.

<sup>24</sup> See, e.g., Rural Iowa Independent Telephone Association comments at 3.



petition.

**C. The Requested Ruling Will Not Create a Competitive Disparity**

The LECs continue to assert that the CTIA requested ruling would somehow result in grave inequity or disadvantage for wireline carriers. Most of the arguments regarding the alleged disparity made by the rural carriers seem to relate more to the rural LECs' current unhappiness about various interconnection-related issues with wireless carriers than to any genuine concerns regarding wireless LNP.<sup>26</sup> As noted above, these issues are more appropriately addressed in other proceedings.

The remaining arguments about competitive disparity appear to stem from what is a basic limitation of wireline service; *i.e.*, that customers porting a number to a *wireline* carrier must be physically located in the rate center associated with the NPA-NXX of the customer's ported telephone number.<sup>27</sup> To the extent that there is a disparity, it is not due to the way that LNP is applied or provided by the carriers, but is simply a function of the differences between the wireline and wireless carriers' services.<sup>28</sup> As a technical matter, wireline carriers can generally only assign numbers to customers within the rate center in which the customer is physically located.<sup>29</sup> In contrast, a wireless carrier does not necessarily have to assign a number to a customer out of the same rate center in which the customer lives and/or works, although for the most part, wireless carriers do so because customers prefer to have numbers in these rate centers.

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<sup>25</sup> See, *supra* text at II.B.

<sup>26</sup> *Id.*

<sup>27</sup> See NANC First LNPA Working Group Report on Wireless Wireline Integration, Appendix D, Section 1.4 (Wireline TN Assignment).

<sup>28</sup> See AWS comments at 7; T-Mobile comments at 8, 12.

<sup>29</sup> As T-Mobile notes, however, even wireline carriers could provide numbers to a wireline customer out of a different rate center from which the customer is physically located and offer that service as a foreign exchange service. T-Mobile comments at 11-12.

These differences in numbering assignment practices make sense, given the differences in the technologies. The Commission should not eliminate one of the benefits of wireless service or otherwise artificially limit porting in an attempt to achieve so-called “parity.”

#### **IV. CONCLUSION**

For the foregoing reasons, AWS urges the Commission to grant the CTIA requested ruling. To the extent that the Commission is unable to grant the petition immediately, it should defer or extend the wireless LNP implementation deadline.

Respectfully submitted,

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